IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 7042 of 1997

For Approval and Signature:

HONOURABLE MR.JUSTICE M.R. SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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ASHIKALI AKBARALI GILANI - Petitioner(s)
Versus
VIRAMGAM NAGARPALIKA - Respondent(s)

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Appearance :
MR BS SUPEHIA for Petitioner(s) : 1,
MR MB FAROOQUI for Respondent(s) : 1,

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH

Date : 04/04/2007

ORAL JUDGMENT

By way of this petition under Article 226 of the Constitution of India, the petitioner has prayed for an appropriate writ, direction and/or order quashing and setting aside the order dated 23-9-1997

terminating the services of the petitioner while according to the petitioner retaining his juniors working as daily wagers.

2. It is the case on behalf of the petitioner that as per the earlier orders passed by this Court and the statement of the learned advocate appearing on behalf of the respondent Municipality i.e. passed in Special Civil Application Nos.9066 and 9067 of 1992; MCA Nos.1021 and 1022 of 1993, the respondents were required to maintain the seniority of the daily wagers and accordingly the appointment of the daily wagers is to be made/continued. It is the contention on behalf of the petitioner that in spite of the fact that some other five persons named by way of draft amendment have been continued as daily wagers, however, by order dated 24-9-1997, the services of the petitioner have been brought to an end as a daily wager and the petitioner is relieved w.e.f. 25-5-1997.

3. No affidavit-in-reply is filed on behalf of the respondent Municipality. However, the respondents are directed to consider the case of the petitioner in light of the observations made by this Court in its earlier orders dated 28-4-1993 passed in Special Civil Application Nos.9066 and 9067 of 1992 and MCA Nos.1021 and 1022 of 1993 which were on the basis of the statement made on behalf of the respondent Nagarpalika and if any of the daily wagers junior to the petitioner are found to be working on the post on which the petitioner was serving, the respondents are directed to consider the same. The said exercise to

be completed within a period of three months from today.

4. With this, the present petition is disposed of. Rule discharged. No costs.

(M.R. SHAH, J.)

shekhar